

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RICKY WHITMORE,

Plaintiff,

v.

ELMEACO MALLORY, et al.,

Defendants.

Case No. 2:15-cv-2838

JUDGE GREGORY L. FROST

Magistrate Judge Elizabeth P. Deavers

ORDER

Previously, this Court filed an Order in which the Court, noting that no objections had been filed, adopted the Magistrate Judge's Order and Initial Screen Report and Recommendation and dismissed this action pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). (ECF No. 6.) The Court instructed the Clerk to enter judgment accordingly and terminate the case on the docket.

Subsequent to the filing of that Order, the Clerk's Office received an objection from Plaintiff that is dated November 3, 2015, and was received by the Clerk on November 10, 2015. Accepting the objection as timely filed, the Court **VACATES** the Order adopting the Magistrate Judge's Order and Initial Screen Report and Recommendation and dismissing this case. (ECF No. 6.) The objection does not, however, persuade the Court to reject the Magistrate Judge's Order and Initial Screen Report and Recommendation.

The Magistrate Judge's thorough and well-reasoned opinion explains at length that Plaintiff's claims fail for the same reasons discussed fully in his prior case: there is no private right of action here. Additionally, the Magistrate Judge explained that *res judicata* or claim preclusion bars Plaintiff's federal claims against Defendant Mallory and that the Thirteenth

Amendment simply does not apply to the facts that Plaintiff has pled. Finally, as the Magistrate Judge explained, even construing Plaintiff's pleading as asserting Title VII claims fails to preclude dismissal; there is no basis to infer from the facts actually pled that Plaintiff was terminated from his employment because of his gender or race. This Court agrees with all of the Magistrate Judge's reasoning. Plaintiff's objection does nothing to puncture this analysis. The objection adheres to inapplicable and erroneous legal theories.

The Court therefore **OVERRULES** Plaintiff's objection (ECF No. 7), **ADOPTS** the Order and Initial Screen Report and Recommendation (ECF No. 5), and **DISMISSES** this action pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The Clerk shall enter judgment accordingly and terminate this case on the docket records of the United States District Court for the Southern District of Ohio, Eastern Division.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE